

## **5.18-100                      Solar Access Protection**

### **Subsections:**

<b>5.18-105</b>	<b>Purpose and Applicability</b>
<b>5.18-110</b>	<b>Review</b>
<b>5.18-115</b>	<b>Submittal Requirements</b>
<b>5.18-120</b>	<b>Criteria</b>
<b>5.18-125</b>	<b>Recordation</b>
<b>5.18-130</b>	<b>Effect and Enforcement</b>
<b>5.18-135</b>	<b>Termination</b>

<b>5.18-105                      Purpose and Applicability</b>
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- (A) The Solar Access Protection application provides protection from the shade cast by new vegetation planted after the date of application, and from shade cast by new structures or expansions or additions to structures constructed after the date of application. The Solar Access Protection application defines height limitations for new vegetation and/or structures or portions of structures located within all land use districts. Only lots/parcels located in R-1 and R-2 Districts are eligible to receive Solar Access protection.
- (B) No Solar Access Protection approval may restrict a lot/parcel:
- (1) Or portion of a lot/parcel which is located more than 150 feet south of the solar energy system.
  - (2) That has a slope facing within greater than 45 degrees east or west of true north south and exceeding 15 percent.
- (C) Solar Access Protection approval becomes void if the use of the solar energy system feature is discontinued for more than 12 consecutive months or if the system solar feature is not installed and operative within 12 months of the filing date of the Solar Access Protection application.
- (D) Terms used in this section not otherwise defined in SDC 6.1.100 and 6.1.110 have the same definition provided in ORS 105.885.

<b>5.18-110                      Review</b>
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The Solar Access Protection application shall be reviewed under Type 2 procedure.

This version of the code is dated April 6, 2022 and reflects the Planning Commission recommendation with some additional edits. Changes recommended by the Planning Commission have been incorporated into this version. Additional edits made since the Planning Commission's recommendation are shown in track changes. Areas of the code that are highlighted in grey indicated sections that are clearly not applicable outside the city limits, inside the Urban Growth Boundary (UGB).

#### **5.18-115 Submittal Requirements**

An application for the Solar Access Protection application must include:

- (A) The name and address of the applicant and property owner and the assessor map and tax lot map numbers of the property where the proposed application is to be applied.
- (B) The hours and months for which solar access is sought.
- (C) A scaled drawing of the solar energy system feature, its dimensions, its height above ground level and its orientation with respect to true south.
- (D) A sunchart showing the plotted skyline, including vegetation and structures, for the proposed location as seen from the center of the lower edge of the site of the solar energy system feature. If the solar energy system feature is more than 20 feet in length, a sunchart shall also be provided for the southeast and southwest corners of the lower edge of the solar energy system feature.
- (E) A Plot Plan showing lot/parcel lines and dimensions of the applicant's lot/parcel and neighboring lots/parcels which will be affected by the application. The Plot Plan shall include the location of the solar energy system feature and the location of structures and trees on the applicant's lot/parcel and affected neighboring lots/parcels.
- (F) A solar envelope for each lot/parcel that would be restricted by the Solar Access Protection.
- (G) The names and addresses of all owners and registered lessees of properties that would be restricted by the Solar Access Protection.

#### **5.18-120 Criteria**

The Director shall approve, approve with conditions or deny the request based on the following criteria:

- (A) The Solar Access Protection will provide at least 4 hours per day of solar access to the solar energy system, between 9 a.m. and 3 p.m. during the period for which solar access protection is being sought. The hours and dates during which solar access is protected cannot exceed two hours before and after the solar zenith from September 22 to March 21, and three hours before and after the solar zenith from March 22 to September 21.

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- (B) The solar energy system must not be shaded by any existing vegetation, structures, or topographic features.
- (C) The solar energy system feature is installed or the applicant has provided a written commitment to install the proposed solar energy system within 1 year of the effective date of the permit.
- (D) The area to be restricted by the Solar Access Protection must be reasonably located. A Solar Access Protection is unreasonable if the applicant could trim their own vegetation to permit an alternative location that would be less burdensome upon a restricted property, or if there is an alternate location for the solar energy system that would impose a lesser burden on neighboring property or properties.

#### **5.18-125      Recordation**

Upon approval of the Solar Access Protection application, the Director shall:

- (A) **Record** the Solar Access Protection approval including any exemptions to or limits on the solar access protected, plot plan, sunchart and solar envelopes as required by ORS 105.895; and
- (B) Send a Notice of Decision to each property owner and occupant affected by the Solar Access Protection stating whether the Solar Access Protection has been granted and recorded, or whether it has been denied. If the Solar Access Protection has been granted, the notice must state that it imposes conditions upon construction of new structures and expansion or additions to existing structures, and that it may impose certain obligations on the property owner or occupant to trim vegetation in the future.

#### **5.18-130      Effect and Enforcement**

- (A) The effective date of the Solar Access Protection approval shall be the date that the decision is final as provided in SDC 5.1.455(B). No person shall plant any non-exempt vegetation or construct, expand or add onto any structure, that shades a recorded solar energy system feature after receiving notice of a pending application, unless or until the application is denied or the permit terminated.
- (B) In the event that non-exempt vegetation or a non-exempt structure on a neighboring property is shading a solar energy system feature for which a Solar Access Protection approval has been granted, the permit holder or the City, on complaint by the permit holder, shall give notice of the shading to the property owner or occupant of the property where the shading vegetation or structure is located. If the property owner or occupant fails to remove or modify the structure, or remove or trim the

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shading vegetation, within 30 calendar days after receiving the notice, an injunction may be issued upon complaint of the permit holder to the Lane County Circuit Court. The injunction may order the property owner or occupant to modify or remove the structure or remove or trim the vegetation, and the court may order the violating property owner or occupant to pay any damages to the complainant, to pay court costs and to pay the complainant reasonable attorneys' fees. Nothing in this section limits the permit holder or City from seeking other remedies provided by ordinance or by state law.

<b>5.18-135</b>	<b>Termination</b>
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The Director may revoke the Solar Access Protection approval if the solar collector feature does not function for 12 consecutive months or if requested by the permit holder or successor in interest. The Director must send a Notice of Termination to the permittee or their successor, the owners of all properties restricted by the Solar Access Protection , and must record the Notice of Termination with Lane County Deeds and Records.